

Minutes

Board of Selectmen and Sewer Commissioner's Meeting

July 18, 2005

Frances Faulkner Hearing Room
Acton Town Hall

7:00 P.M.

Present: Chairman Peter Ashton, Selectman F. Dore' Hunter, Selectman Lauren Rosenzweig, Town Manager Don Johnson and Assistant Town Manager John Murray.

EXECUTIVE SESSION

There will be a need for an Executive Session.

CITIZENS' CONCERNS: Citizen Jeff Bursaw filed a complaint about the existing sign bylaw. Selectman Peter Ashton recommended that counsel look into the wording on the bylaw and note any possible adjustments that might make sense.

SEWER COMMISSIONERS' BUSINESS

SEWER CONNECTION REQUEST, FAULKNER MILL REALTY, LLC, 4 HIGH STREET –Faulkner Mill requested permission to connect to the Middle Fort Pond Brook Sewer System. **Selectman Hunter moved to approve. Selectman Rosenzweig seconded. Unanimous vote in favor of approving the connection.**

SUPPLEMENTAL AMENDED ORDER FOR CONSTRUCTION, MIDDLE FORT POND BROOK SEWER SYSTEM – An oversight from a previous meeting 20 Silver Hill Rd, Whitley MFPBS System.

Selectman Ashton moved to pass the amended order. Selectman Hunter seconded. Unanimous vote in favor of approving the construction.

PUBLIC HEARINGS & APPOINTMENTS

OPERATIONAL MINUTE – Town Manager Don Johnson waived as time was short.

VETERANS' MEMORIAL PRESENTATION, PATRICK MURRAY – Mr. Murray presented a proposal he has developed in conjunction with an Eagle Scout Project. Selectman Ashton volunteered to mentor Patrick and Selectman Hunter also offered his assistance.

Selectman Hunter moved to accept the Town of Acton being beneficiary to Patrick's Veterans' Memorial. Additionally, Patrick is allowed to organize fund raising events, sell fund raising items at town events and that the Treasurer is authorized to open a gift account to use for this purpose. Selectman Rosenzweig

seconded. Unanimous vote in favor of approving Patrick Murray continuing development of his Eagle Scout project.

BLANCHARD PLACE LOCAL INITIATIVE PROGRAM (LIP), 139 PROSPECT STREET – Presentation by Scott Hayes and Steve Marsh, which although well received, still has a few open items. The request was for a waiver from sewer betterments for affordable units. **Selectman Ashton continued the subject matter to Aug. 8, 2005.**

ACTON COMMUNITY HOUSING CORPORATION (ACHC) Nancy Tavernier presented the Town's Counsel motion on the Willow Street/Central Street project proposed by the Acton Community Housing Corporation.

Selectman Hunter moved to approve the project goes forward as set by town counsel motion. The vote was unanimous.

TOWN OF ACTON – BOARD OF SELECTMEN

Motion to Authorize Acton Community Housing Corporation to Advance Affordable Housing Development on Certain Town-Owned Property

WHEREAS the Town of Acton is the owner by tax taking of the real property at 28 Willow Street and 214 Central Street, Acton, Massachusetts (the "Property") by tax title takings in Land Court Case Nos. 112320 T.L. and 112319 T.L. (Judgments dated May 4, 1998).

WHEREAS the Acton Community Housing Corporation ("ACHC") proposes that the Property be developed as an affordable housing project consisting of three units of affordable housing (a duplex farmhouse on the Central Street side of the Property and a one-unit bungalow on the Willow Street side of the Property) (the "Project").

WHEREAS the Board of Selectmen supports ACHC's proposal for the Project.

WHEREAS ACHC is a non-profit housing corporation created by special Home Rule legislation and is subject to the supervision of the Board of Selectmen. See Chapter 143 of the Acts of 1996, § 1.

WHEREAS, under ACHC's Home Rule legislation, ACHC has the power "with the approval of the board of selectmen, to acquire ..., and to own, ... and to ... sell, transfer, convey, ...or to otherwise dispose of, on such terms and conditions as it may deem proper, real ... property ... as may be necessary or appropriate to carry out its purposes." (St. 1996, c. 143, § 2(d)).

WHEREAS the Board of Selectmen intends to place an article on the warrant for the next Town Meeting to authorize the Selectmen to convey the Property to ACHC on certain terms and conditions for purposes of re-conveyance, subject to applicable law, to a developer that will develop affordable housing on the Property.

NOW THEREFORE, the Board of Selectmen moves to authorize the following actions in furtherance of the Project on the Property:

1. ACHC is hereby authorized to apply to the Department of Housing and Community Development ("DHCD") for any necessary approval and site eligibility determination under the Local Initiative Program, 760 CMR 45.00, for the Project.
2. ACHC is hereby authorized to apply to the Acton Board of Appeals for a Comprehensive Permit under M.G.L. c. 40B for the Project.

3. ACHC is hereby authorized to apply to other State and Town boards, commissions, departments, and agencies for any other necessary permits and approvals for the Project, exclusive of any building permits and other construction-related permits needed for the actual construction of the Project (it being understood that the Selectmen and ACHC intend, subject to Town Meeting approval, that the permitted Project and Property will be conveyed pursuant to applicable law and re-use restrictions to a qualified developer who will own the Property, construct the Project, and dispose of the units as appropriate).
4. Prior to submission, each such application shall be provided to Town Counsel, the Town Manager, and the Board of Selectmen for their respective review and approval, and for execution as may be necessary on behalf of the Town.
5. Town Counsel, in consultation with the Town Manager, is hereby authorized and directed to prepare any necessary Affordable Housing Restrictions, Land Dispositions Agreements, Request for Proposals, and other transaction documents necessary to effectuate the Project.
6. The Town Manager is hereby authorized to determine the value of the Property subject to the terms and conditions of the Comprehensive Permit and the affordable housing restrictions to be imposed on the Property. Said determination shall be made under G.L. c. 30B, § 16(b), through procedures customarily accepted by the appraising profession as valid, including in the judgment of the Town Manager a real estate appraisal from a qualified real estate expert familiar with property values in the Town of Acton.
7. In the event the value of the Property as so determined exceeds twenty-five thousand dollars in value, ACHC is hereby authorized to issue a Request for Proposals ("RFP") in accordance with documents to be prepared by Town Counsel and approved by the Town Manager and the Board of Selectmen for the prospective conveyance of the Property conditioned upon the construction and implementation of the Project. Without limitation, the RFP shall condition such disposition of the Property on the approval of Town Meeting and the further approval of the Board of Selectmen under St. 1996, c. 143, § 2(d) and/or other applicable law.
8. Town Counsel, in consultation with the Town Manager, is hereby authorized and directed to prepare any necessary warrant articles for the next Town Meeting to authorize the Selectmen to convey the Property to ACHC for purposes of re-conveyance to a developer who shall develop the affordable housing Project on the Property, subject to applicable law, subject to terms and conditions established by the Selectmen, and subject to the terms and conditions of the Comprehensive Permit and the affordable housing restrictions to be imposed on the Property for the Project.
9. For purposes of G.L. c. 40, § 15, the proposed warrant article authorizing the Board of Selectmen to convey the Property to ACHC shall specify the amount to be paid by ACHC for such conveyance as **\$202,548**, which when paid shall be applied, in the following order, to (a) the taxes, interest and penalties outstanding with respect to the Property, (b) the required amount of the payment in lieu of taxes that would be required from a buyer of the property, calculated in accordance with G.L. c. 44, § 63A, as of the date of the conveyance, (c) the assessment, containment and removal costs incurred by the Town with respect to the environmental condition of the Property, and (d) the attorney's fees and costs related to the Town's investigation of environmental contamination at the Property and the lawsuit to collect those costs.

IN WITNESS WHEREOF, the Board has caused the foregoing to be moved, seconded, and approved at an open meeting duly called and noticed for the purpose on this 18th day of July, 2005.

TOWN OF ACTON, MASSACHUSETTS,
By its Board of Selectmen

Peter K. Ashton, Chairman

Walter M. Foster, Vice Chairman

Lauren Rosenzweig

F. Dore' Hunter, Acting Clerk

CONDOMINIUM CONVERSION, SOMERSET HILLS LIMITED PARTNERSHIP, 10-16 WAMPUS AVENUE – presentation by Attorney John Costgo and George Morrill changing the Wampus Ave apartments to Condos.

Selectman Dore' Hunter moved to pass the conversion as amended. Selectman Rosenzweig seconded. Unanimous vote in favor of the amendments are as follows:

3.2.1 (bullet 1) Selectmen agree to eliminate the specific hours for showing apartments and add terminology that would allow for the showing of apartments at a time mutually agreed upon by the owner and tenant.

3.2.1 (bullet 3) Provisions for hours of construction are to increase by the addition of Saturday hours 9AM - 2PM.

3.2.9 Maximum sale price listed in this paragraph to be specified as the "maximum initial sale price"

NSTAR POLE LOCATION HEARING, 136 MAIN STREET - Christine Crosby was present to answer questions and concerns about the new pole installation.

Selectman Ashton moved to pass the new pole installation, with conditions, a fire survey to be done before wires are moved and N-Star to work with the Municipal Properties Director to remove excess poles that have been left in areas creating a hazard. (Conditions as contained in Engineering Memo) and Selectman Hunter seconded. Additional conditions set are:

Special Conditions for Utility Pole #31/53 – 136 Main Street, Acton, MA

Cables to be attached to the new utility pole 31/53 are as follows:

- Top of pole is primary cable
- 20-inches below is secondary cable
- 24-inches below is the fire alarm cable
- 10-inches below is cable TV
- 20-inches below is telephone

The new utility pole will be:

- 45 feet high with 6 feet in the ground
- Made of hard pine (penta)
- Pressure treated through injection (not to be treated by NStar)
- No guy wires allowed
- On top of the pole will be 336 open wire primary cable – 20" below will be the 3x1/0 secondary cable

Unanimous vote in favor of approving the pole.

FREEDOM'S WAY HERITAGE ASSOCIATION – Due to emergency, Freedom's Way Heritage Association canceled their presentation.

ECONOMIC DEVELOPMENT INDUSTRIAL CORPORATION (EDIC) OVERSIGHT MEETING A presentation by Josh Chernin and Jim Walker spoke to the need to reposition EDIC, the need for guidance from BOS, and the need of law interpretation from the town's counsel with regards to 30B and rewriting legislation. The Board strongly feels that there can be great benefit from maintaining the EDIC. Selectman Ashton was assigned to be a liaison and the Town Manager was authorized to utilize Town counsel. Put EDIC on "State of the Town".

SELECTMEN'S BUSINESS

TOWN CLERK APPOINTMENT – The Board of Selectmen, as appointing authority, reviewed the performance of acting Town Clerk Eva Bowen. With many positive comments Selectman Hunter moved to appoint Eva Bowen to the Town Clerk position. Term to expire 7/15/08. Selectman Rosenzweig seconded. **Unanimous vote in favor of approving the appointment.**

REQUEST FOR EXTENSION OF ENVIRONMENTAL PROTECTION AGENCY (EPA) PUBLIC COMMENT PERIOD, W.R. GRACE – The EPA, having noted the ongoing contamination and rejecting the premise that the W.R. Grace site's pollution plume is in any further need of active clean-up and the lack of response time for Public Comment, leaves the Board no option but to vote to accept to release to the public the Press Release and Letter. The Board requested the Town Manager send it to all State and Federal Departments in the chain of command up to and including the White House. Additionally it was noted the July 19th meeting with EPA will allow dialogue but the Aug 4th meeting will only allow questions with no answers. The answers to be in writing only after EPA and W.R. Grace reach a decision. Selectman Hunter moved to pass, Selectman Rosenzweig seconded.

Unanimous vote in favor of accepting and sending out the Press Release and the letter.

SELECTMEN DISCUSSION OF ISSUES FOR COMCAST LICENSE HEARING – The Board discussed the issues not currently in compliance with the Comcast License.

- Televised coverage of meetings other than the Board of Selectmen, Finance Committee and School Committees
- Signal quality of televised meetings
- Proper operation of cameras, sound and character generation equipment
- Unpredictable viewing schedule
- Solicitation of new community-based programming
- Demographics of Channel 8 viewers and what they watch
- Lack of performance with respect to deliverables in contract
- Financial Data:
 - Pricing and latest rate increase
 - Franchise related costs
 - Financial reporting showing 33% increase in profits

Before the Review Hearing on August 8; the Board is also requesting that documentation be sent to Comcast listing the current non-compliance issues. (Draft list to be circulated for Board approval). If this notice is ignored then The Board recommends voiding the contract due to lack of performance.

2005-2006 BOARD AND COMMITTEE REAPPOINTMENT LIST – The Town Manager is to review the charter to determine if a revision is necessary to allow for Associate members on some committees. All members on the list of committees to be designated as Special Municipal Employees. Fix status of Nancy Tavernier as Associate to Community Preservation Commission, Sunset Don Herskovitz from Lowell Regional Transit Authority. It was noted that in the State of the Town it showed a lack of volunteers.

Selectman Ashton moved to pass all appointments. Selectman Rosenzweig seconded. The vote was unanimous for all reappointments.

SELECTMAN RESIGNATION – Selectman Johnson submitted his resignation. Bob Johnson was also Clerk. Those duties will be taken over by Dore' Hunter. Selectman liaisons to the following committees that Bob had held were made; Board of Health: Walter Foster, Transportation Advisory Committee: Lauren Rosenzweig, Lowell Regional Transit: Dore' Hunter, Economic Development and Industrial Corporation: Peter Ashton.

Selectman Rosenzweig moved to pass, Selectman Peter Ashton seconded, Selectman Hunter abstained.

TOWN MANAGER'S ANNUAL EVALUATION – Selectman Hunter presented the Town Manager's annual review which was approved by the board. Selectman Hunter then moved to extend the Town Manager's contract for an additional year to maintain the 3 year term of contract, which the board then approved. Selectman Hunter moved to increase the Town Manager's base salary by \$1500.00 per year and to consider further increases after collective bargaining negotiations are settled. **The Board approved unanimously.**

Selectman Hunter then moved to have the Board of Selectmen reinstate the board's annual salaries as of July 1, 2005.

FY06 SENIOR WORK PROGRAM - The Board of Selectmen finds the Senior Work Program is an excellent program and would like to investigate alternative funds to help support its ongoing mission. **Selectman Hunter moved to pass Donna Rochette's proposed expansion to 20 workers at 75 hours each. The monies as follows: 20 Workers, at \$10.00 an hour each, total of 75 hours per person. For a sum of not more than \$15,000.00 from the Audubon Hill fund.**

Selectman Rosenzweig seconded. Unanimous vote in favor of approving the monies.

OTHER BUSINESS – Selectmen's annual pay – Due to the fact that the selectmen's annual pay (\$750.00/annum for the Chairman and \$650.00/annum per member) offsets in part their out-of pocket expenses Board Member incur in performing their official duties;

Selectman Hunter moves that the Selectmen shall receive full pay for the period 7/1/05-6/30/06. Selectman Ashton seconds. The vote was unanimous vote in favor.

CONSENT AGENDA

The Board approved all consent items with the exception of # 21 held for discussion, #19 held for discussion and Selectman Rosenzweig abstained from the vote on Quail Ridge #20.

19. NINE MONTH WHEELABRATOR CONTRACT – After discussion, Selectman Rosenzweig moved to pass, Selectman Ashton seconded. . Unanimous vote in favor of contract adjustment.

20. ALL ALCOHOLIC BEVERAGES LICENSE AS A COMMON VICTUALER, QUAIL RIDGE COUNTRY CLUB, FAMILY CENTER – Selectman Hunter moved to pass, Selectman Ashton seconded, Selectman Rosenzweig abstained.

21. SPECIAL USE PERMIT FOR NOT YOUR AVERAGE JOE'S RESTURANT – Passed with conditions, they need to rewrite their alcohol monitoring policy, will roll into consent when accomplished.

22. CHAPTER 268 DISCLOSURE LETTER, MATTHEW LUNDBERG

23. ONE DAY LIQUOR LICENSE, AUGUST 18, 2005, NARA PARK, CIENA CORPORATION –

24. ONE DAY LIQUOR LICENSE, AUGUST 19, 2005, NARA PARK, CIENA CORPORATION (RAIN DATE)

25. ONE DAY LIQUOR LICENSE, JULY 24, 2005, NARA PARK, SUE ROPIAK

26. ONE DAY LIQUOR LICENSE, JULY 28, 2005, NARA PARK, TOWN OF ACTON

27. ONE DAY LIQUOR LICENSE, SEPTEMBER 9, 2005, NARA PARK, ROLAND BARTL

28. ACCEPT DONATION – Accepted from the West Acton Citizens' Library for acceptance of the donation of a Library Membership to the Fruitlands Museum in Harvard from the Citizens' Library Auxiliary, valued at \$85.00.

29. ACCEPT DONATION – Accepted from the Natural Resources Director a donation of \$7,250.00 from Cambridge Savings Bank for sponsorship of the "KISS 108 Summer Games" at Acton Day, September 17, at NARA Park.

30. ACCEPT DONATION – Accepted to the Police Department a Donation of \$4,400.00 from Haartz Corporation towards the purchase of Safety Trailer to promote traffic safety in Acton

31. ACCEPT DONATION – Accepted donation to the Police Department surplus military equipment valued at \$76,840.00.

32. PERMIT REQUEST – Acton Lion's Club Town Fair, Parker Damon Building, School Facility,

TOWN MANAGER'S REPORT

None.

EXECUTIVE SESSION

There will be a need for Executive Session. Selectman Rosenzweig moved to go into Executive Session to discuss the Curtis Agreement and the Parker Agreement. Roll call was taken, all Ayes. The Board adjourned into regular session only to adjourn the meeting.

ADDITIONAL INFORMATION

Enclosed please find additional correspondence that is strictly informational and requires no Board action.

FUTURE AGENDAS

To facilitate scheduling for interested parties, the following items are scheduled for discussion on future agendas. This IS NOT a complete Agenda.

August 29
September 12 & 26
October 17

December 12 & 19
January 7 (Budget Saturday), 16 & 30
February 13 & 27
March 13 & 27

GOALS 2004-2005

1. Produce Morrison Farm Development Master Plan (Bob/Walter)
2. NARA PARK
3. Pursue Commercial Tax Base
4. Master Plan review meeting once per year

GOALS carried forward

5. Monitor Labor Negotiations (Peter)
6. Improve Communication with Town Boards (ALL), Improving Inter Board Communication (Dore')
7. Revisit 2020 planning process for direction to make this process more beneficial towards implementation of long-term vision, and to get a first rough cut of what happens next year before school is out for the summer (Trey/Peter)
8. ALG process be used for purpose of Budget Planning for FY05 (Dore'/Peter)
9. Process Planning for "Life after NESWC" (Bob)
10. Middlesex Pension Alternatives (Walter)

Recording Secretary

Lauren Rosenzweig, Clerk

Date

July 15, 2005

TO: Board of Selectmen, Sewer Commissioners

FROM: Peter Ashton, Chairman

SUBJECT: Selectmen and Sewer Commissioners' Report

July 18, 2005

7:00 P.M.

I CITIZENS' CONCERNS

II SEWER COMMISSIONERS' BUSINESS

1. **SEWER CONNECTION REQUEST, FAULKNER MILL REALTY, LLC, 4 HIGH STREET** – Enclosed please find the request of Faulkner Mill for permission to connect to the Middle Fort Pond Brook Sewer System, for Board consideration.
2. **SUPPLEMENTAL AMENDED ORDER FOR CONSTRUCTION, MIDDLE FORT POND BROOK SEWER SYSTEM** - Enclosed please find materials in the subject regard, for Board consideration.

III PUBLIC HEARINGS & APPOINTMENTS

3. **7:01 OPERATIONAL MINUTE** – The Town Manager will give the Board a brief update on various topics.
4. **7:02 VETERANS' MEMORIAL PRESENTATION, PATRICK MURRAY** – Mr. Murray will address the Board regarding a proposal he has developed in conjunction with an Eagle Scout Project.
5. **7:05 BLANCHARD PLACE LOCAL INITIATIVE PROGRAM (LIP), 139 PROSPECT STREET** – Enclosed please find materials in the subject regard, for Board consideration.
6. **7:30 ACTON COMMUNITY HOUSING CORPORATION (ACHC)** - Enclosed please find materials regarding the Willow Street/Central Street project proposed by the ACHC, for Board consideration.
7. **8:00 CONDOMINIUM CONVERSION, SOMERSET HILLS LIMITED PARTNERSHIP, 10-16 WAMPUS AVENUE** - Enclosed please find the application of Somerset Hills Limited Partnership to convert the subject complex to condominiums, along with other related materials, for Board consideration.
8. **8:20 NSTAR POLE LOCATION HEARING, 136 MAIN STREET** - Enclosed please find materials in the subject regard, for Board consideration.

9. **8:30 FREEDOM'S WAY HERITAGE ASSOCIATION** – At the Board's request representatives of Freedom's Way Heritage Association will be in to describe their program.
10. **9:00 ECONOMIC DEVELOPMENT INDUSTRIAL CORPORATION (EDIC) OVERSIGHT MEETING** – Members of the EDIC will be in for their annual oversight meeting with the Board.

IV SELECTMEN'S BUSINESS

11. **TOWN CLERK APPOINTMENT** - Enclosed please find materials in the subject regard, for Board consideration.
12. **REQUEST FOR EXTENSION OF ENVIRONMENTAL PROTECTION AGENCY (EPA) PUBLIC COMMENT PERIOD, W.R. GRACE** - Enclosed please find materials in the subject regard, for Board consideration.
13. **SELECTMEN DISCUSSION OF ISSUES FOR COMCAST LICENSE HEARING** – The Chairman has asked that the Board discuss the issues it wishes to cover in the Comcast License Review Hearing on August 8.
14. **2005-2006 BOARD AND COMMITTEE REAPPOINTMENT LIST** - Enclosed please find materials in the subject regard, for Board consideration.
15. **SELECTMAN RESIGNATION** – Enclosed please find Selectman Johnson's resignation, for Board consideration. Charter section for process.
16. **TOWN MANAGER'S ANNUAL EVALUATION** – Enclosed please find Selectman Hunter's recommended evaluation of the Town Manager for the year ended June 30, 2005, for Board consideration.
17. **FY06 SENIOR WORK PROGRAM** - Enclosed please find materials in the subject regard, for Board consideration.
18. **OTHER BUSINESS**

V CONSENT AGENDA

19. **NINE MONTH WHEELABRATOR CONTRACT** - Enclosed please find materials in the subject regard, for Board consideration.
20. **ALL ALCOHOLIC BEVERAGES LICENSE AS A COMMON VICTUALER, QUAIL RIDGE COUNTRY CLUB, FAMILY CENTER** - Enclosed please find materials in the subject regard, for Board consideration.
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VI TOWN MANAGER'S REPORT

VII EXECUTIVE SESSION

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